

§ 1011.7

49 CFR Ch. X (10–1–00 Edition)

(4) To grant extensions of time for filing annual, periodic, and special reports in matters that do not involve taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(b) The board may certify any matter assigned to it to the Board.

[62 FR 50883, Sept. 29, 1997]

§ 1011.7 Delegations of authority by the Chairman.

(a)(1) This section provides for delegations of authority by the Chairman of the Surface Transportation Board to individual Board employees.

(2) The Chairman of the Board may remove for disposition any matter delegated under this section, and any matter delegated under this section may be referred by the Board employee to the Chairman for disposition.

(b)(1) The Board will decide appeals from decisions of employees acting under authority delegated under this section. Appeals must be filed within 10 days after the date of the employee's action, and replies must be filed within 10 days after the due date for appeals. Appeals are not favored and will be granted only in exceptional circumstances to correct a clear error of judgment or to prevent manifest injustice.

(2) [Reserved]

(c)(1) As used in this paragraph, *procedural matter* includes, but is not limited to, the assignment of the time and place of hearing; the assignment of proceedings to Administrative Law Judges; the issuance of decisions directing special hearing procedures; the establishment of dates for filing statements in cases assigned for handling under modified (non-oral hearing) procedure; the consolidation of proceedings for hearing or disposition; the postponement of hearings and of procedural dates; the waiver of formal specifications for pleadings; and extensions of time for filing pleadings. It does not include interlocutory appeals from the rulings of hearing officers; nor does it include postponement of the effective date of:

- (i) Decisions pending judicial review,
- (ii) Decisions of the entire Board,
- (iii) Cease and desist orders,

(iv) Orders suspending or revoking operating authority, or

(v) Final decisions where petitions for discretionary review have been filed under 49 CFR 1115.5.

(2) Unless otherwise ordered by the Board in individual proceedings, authority to dispose of procedural matters arising before issuance of an initial decision in proceedings assigned for handling under oral hearing procedure or assigned to an Administrative Law Judge under modified procedure is delegated to the Chief Administrative Law Judge of the Board. Notwithstanding this delegation, Board Members, Administrative Law Judges, and Joint Boards appointed under 49 U.S.C. 10341-10344 retain the authority to dispose of procedural matters in proceedings assigned to them.

(3) Unless otherwise ordered by the Board in individual proceedings, authority to dispose of routine procedural matters in proceedings assigned for handling under modified procedure, other than those assigned to an Administrative Law Judge, or arising after issuance of an initial decision by a hearing officer in a proceeding that has been the subject of an oral hearing, is delegated to the Secretary of the Board. The Secretary shall also have authority, unless otherwise ordered by the Chairman or by a majority of the Board in individual proceedings, to decide whether operating rights application and complaint proceedings shall be handled under the modified procedure or be assigned set for oral hearings. In carrying out these duties, the Secretary shall consult, as necessary, with the General Counsel and the Director of any other Board Office to which an individual proceeding has been assigned.

(d) Except as provided at 49 CFR 1113.3(b)(1), authority to dismiss a complaint on complainant's request, or an application on applicant's request, is delegated to the Secretary and to the Chief Administrative Law Judge.

(e) [Reserved]

(f) Authority to grant or deny access to waybills and to statistics reported under orders of the Board is delegated to the Director of the Office of Economics.

(g) Certain accounts in the Uniform Systems of Accounts, 49 CFR parts 1200 through 1207, require Board approval to use. Authority to grant or deny requests for use of these accounts is delegated to the Director and Associate Director of the Office of Economics, Environmental Analysis, and Administration and the Chief of the Section of Economics.

(h) The Secretary of the Board is delegated authority, under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, to:

(1) Sign and transmit to the Small Business Administration certifications of no significant economic effect for proposed rules, that if adopted by the Board, will not have a significant economic impact on a substantial number of small entities; and

(2) Sign and transmit findings regarding waiver or delay of an initial regulatory flexibility analysis or delay of a final regulatory flexibility analysis.

(i) Issuance of certificates and decisions when no protest is received within 30 days after an abandonment or discontinuance application is filed under 49 U.S.C. 10903, and the Board must find, under 49 U.S.C. 10904(b) that the public convenience and necessity require or permit the abandonment or discontinuance, is delegated to the Director of the Office of Proceedings.

(j) Issuance of certificates and decisions authorizing Consolidated Rail Corporation to abandon or discontinue service over lines for which an application under section 308 of the Regional Rail Reorganization Act of 1973 has been filed is delegated to the Director of the Office of Proceedings.

[58 FR 29357, May 20, 1993, as amended at 61 FR 52710, Oct. 8, 1996; 62 FR 50884, Sept. 29, 1997; 64 FR 53266, Oct. 1, 1999]

§ 1011.8 Delegations of authority by the Board to specific offices of the Board.

(a) *Office of Congressional and Public Services.* (1) There is established an Office of Congressional and Public Services. The Office assumes the functions previously assigned to the former Office of Special Counsel, the former Small Business Assistance Office, and the State/Community Affairs Liaison position formerly in the Office of Legislation and Governmental Affairs.

(2) The Office shall be managed by a Director, who also serves as Special Counsel of the Board, and by a Deputy Director, who also serves as the Small Business Assistance Officer of the Board. The Special Counsel shall be appointed by the Chairman, subject to the approval of a majority of the Board.

(3) The mission of the Office is to assist the Board and the public in determining and representing the public interest, with regard to the Interstate Commerce Act and related statutes. The primary function of the Office is to act as the focal point to coordinate Board activities ensuring that:

(i) The public interest is fully developed in proceedings before the Board and especially to contribute to the development of a complete record in proceedings in which important aspects of the public interest otherwise would not be explored adequately, particularly proceedings affecting the interests of bus passengers, household goods shippers, owner operators, and classes II and III rail carriers and the shippers they serve;

(ii) Small and minority-owned transportation entities, transportation-related entities, consumer groups, small communities, carriers and shippers, and State regulatory officials are advised on the applicability of the law and of the availability of assistance from the Board as this applies to their enterprise; and

(iii) The Board is advised on policy matters regarding its small business assistance functions and programs.

(4) The Office will participate as a party in Board proceedings, including rulemakings, only on the filing of a petition seeking, and on the approval of a majority of the Board granting, such recourse.

(5) The Office of Hearings, in noticing cases for public hearings, shall advise parties of the availability of assistance from the Office of Public Assistance.

(b) *Office of the Secretary.* The Secretary of the Board is delegated the following authority:

(1) Whether (in consultation with involved Offices) to waive filing fees set forth at 49 CFR 1002.2(f).

(2) To issue, on written request, informal opinions and interpretations